Previous references.

1904-5
(Sep. Revn

File No. 8(4)/03-04

Serial Nos. 1 to 6

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B. for February

SUBJECT.

Adjudication of stamp duty on a
doc
82

FILE No. R. 3-03 of 1904-05.

Adjudication of Stamp duty on a document executed by Subbarayabhatta and two others of Bhadrarajpura, Tirthahalli.

1 From the Deputy Commissioner, Shimoga District, No. 742—471, dated the 25th June 1904.
Submits for adjudication of stamp duty a mortgage deed for Rs. 1,000 executed by Subbarayabatta and two others of Bhadrarajpura, Tirthahalli Taluk.

2 To the Registrar, Chief Court, No. 1791, dated the 22nd September 1904.
Forwards the document in question for the opinion of the Chief Court.

3 From the Registrar of the Chief Court of Mysore, No. 2099-114, dated the 29th September 1904.
Enquires whether the above reference is intended to be a formal one under Section 57 of the Stamp Regulation and if so, requests that the papers may be retransmitted with the opinion of the Chief Controlling Revenue authority.

4 To the Registrar of the Chief Court of Mysore, No. 3087, dated the 19th November 1904.
Retransmits the papers for adjudication under Section 57 of the Stamp Regulation 1900 together with the facts of and views on the case.

5 From the Registrar of the Chief Court of Mysore, No. 4011-238, dated the 25th January 1905.
Forwards copy of the opinion of the Judges of the Chief Court (in Civil Referred Case No. 3 of 1904-05) to the effect that the document in question is a mortgage deed within the description of Article 38 (*a*) schedule I of the Regulation II of 1900, and the proper stamp duty is Rs. 10, that the power to collect rent and produce and distribute profits and pay Government revenue is under the explanation to Article 38 to be deemed a form of giving possession within the meaning of article in respect of the mortgage and that therefore the deed does not require any extra stamp though the terms of a power of attorney and of a lease may be involved in it.

G. R.

6 To the Deputy Commissioner of the Shimoga District, No. 5406, dated the 14th February 1905.
Concurring with the judgment of the Chief Court, declares that the document is a mortgage deed and is properly stamped.

G.R.S. 11] 1904

GENERAL AND REVENUE SECRETARIAT.

(Financial)
Sep: Rev:

NOTES.

R File No. 8-A-03.

FILE HEADING.

Adjudication of Stamp duty in certain bonds.

From

The Deputy Commr. Shimoga Dt.

No. 742/471 Dated the 25/6/04. Received 29/6/04

Diary No. R 2290	Enclos. 1 file. Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Submits a case of mortgage deed for Rs 1000/- for adjudication of Stamp duty.

NOTES AND ORDERS.

The original transaction contemplated by the mortgagor is only a mortgage of the property with possession for Rs 1000. The question under consideration is only with regard to the distribution of the

NOTES—First sheet.

Serial No.

income from the property. The terms of the instrument are that the mortgagor should keep to himself Rs 130 out of the profits of the property, in payment of interest and part payment of principal, and to pay the balance, viz, Rs 420 to a third person named by the mortgagor. The Dy Comr considers that this last direction should be taken as a separate transaction and the stamp duly calculated on Rs 1000 (the sum advanced by the mortgagee) + Rs 420 (Surplus profit) × 15 (the number of years required to extinguish the mortgage debt as per terms of the instrument) or Rs 7300.

If the terms were that the surplus profits should be handed over to the mortgagor himself, this direction would not apparently be considered as a separate transaction, and there

General and Revenue Secretariat.

File No. 8 of 1903 on

Serial No.

I agree in the opinion expressed by the Financial Branch that the ~~consideration~~ amount on which Stamp duty should be calculated is Rs 1000 merely. This is the amount advanced by the mortgagee, & the repayment of which (with interest) in 15 years is deemed to have been by the mortgage deed. So far as he is concerned, it makes no difference whether the surplus income payable to the unseemed mortgagor Nagappa is Rs 420 or nil. This payment is merely an obligation attached to the possession of mortgaged property, the annual produce of which happens to be, more than sufficient to discharge the debt within the stipulated period of 15 years. I venture to think that there is only one transaction involved

M. Chandrasekhara Ayyar

Sec 4 19.8.04. Draft accord & 20.8.1904

Dept Subd. Tut 28/8.

Issue 20/8

NOTE—Contn. sheet

MGCPB—10 000—19-5-04

General and Revenue Secretariat.

File No. 8 of 1903.

Serial No.

Q sections 53 & 61 read with sec 57 of the Stamps Rules (Vide supra) 1883 S.R.R. 7 Rules 203 & Rule 6

2/9/1904

Refer to Chief Court

3.IX.04

Draft acct

5.9.1904

Draft subs

2 To the Registrar of the Chief Court of Mysore.

No. 1791 of Ch. 22/9/04.

Forwards the document in question for the opinion of the Chief Court.

3 Letter No. 2099/114 dated the 29th. 1904 1st Dock from the Registrar, Chief Court.

Enquires whether the above reference is intended to be a formal one under Section 57 of the Stamp Regn. and that if so, the papers may be

G.R.S. 12]

General and Revenue Secretariat. | S. R. File No. 8 of 1903-04

Serial No.

matters for Devan's orders. 6/10/04

March II

I think it best to submit this to the Devan Sahib with a draft reply to the Chief Court. So please kindly put up a draft in consultation with the Dy. Sec. who I beg will favor me with a draft. 6

7-10-1904

[The H Br would have facilitated my work if it had atleast drafted the facts-portion of the letter, leaving the opinion of Govt. to be entered by me. As it is, I have not received any assistance from that Branch in the matter] mwll 12/10/04

A draft to the Chief Court is put up, as desired by the Dy Sec

13-10-04

Draft submitted to the Devan Sahib. I think it is a mortgage deed.

14.10.1904

14/10/04

4/14.10.04 2 2 41 26 Vide Decision of the Chief Court

NOTE.—Contn. sheet.

MGCPB—10,000—31-8-04.

G.R.S. 12]
General and Revenue Secretariat.

S-R File No. 8 of 1903

Serial No.

mortgage and that therefore the deed does not require any extra stamp though the terms of a power of attorney & of a lease may be involved in it
Draft noted

31-1-05 21/2/05
1-2

draft-noted by me
8-2-05

Passed
8-2-1905

6. To the Deputy Commr, Shimoga D.
No: 5406 of the 14/2/05.
States the document is properly stamped as a mortgage deed ~~in accordance~~ concerning
States concurring with the judgment of the Chief Court that the document is a mortgage deed and is properly stamped.

MGCPB—20,000—1-11-04.

to one Chandrayana Nagappa, a creditor of the mortgager. This arrangement is to last till the amount paid by the Mortgagee is liquidated Excluding Rs60 the interest on Rs 1000 at 6p.c. per annum a sum of Rs 70 will be deducted every year towards the principal and the full amount will at this rate be paid up in about 15 years.

2. It will be seen from the above that the Mortgagee has to pay a sum of Rs 1000 at the outset and Rs 420 annually for 15 years. The consideration for the document seems to me under these circumstances to be Rs 1000 + 420 × 15 = 7300 I am in doubt whether the stamp duty should be levied on Rs 1000 or on Rs 7300 and I submit the case for the orders of Government.

I have the honour to be,
Sir,
Your most obedt Servt.

[illegible]
for Deputy Commissioner
Shimoga District

Jan

G.R.S 26]

(2)

R File No. 8-03

Serial No. —

Diary No. of letter replied to 7(22°0.

No. R. 1791
R 78-03

General and Rev. Secretariat
(Sep: Rev)
Dated the 22d Septr 1904

To
The Registrar of the Chief Court
of Mysore.

Date of issue 22-9-04

Signed by Mr M N Krishna Rao

Sir,

In forwarding herewith letter no 742/471, of the 25th June 1904 from the Deputy Commr, Shimoga Dt and its enclosures in original regarding the assessment of Stamp duty on a mortgage deed for Rs 1000, I am directed to state that in the document under reference, a sum of Rs 1000 has been advanced by the claimant for the possession of certain lands for a certain period, stipulating that out of the estimated annual income of Rs 550, a sum of Rs 130 should

over.

* to be obligingly returned.

SUBJECT.

Forwards the document for the opinion of the Chief Court.

4

be utilized in partial adjustment of the money advanced and that the remaining Rs420 should be paid on behalf of the executant to one of his creditors. I am directed to refer for the opinion of the Chief Court the question whether the document should be considered as a mortgage deed for Rs1000 or a lease under art 33 cl c Schedule I of the Stamp Regulation of 1900, ~~for the opinion of the Chief Court under section 57 of the said Regulation~~

List of enclosures.

I have etc

C

8/9/1904

Secretary.

Copied by

Examined by

~2099 Jud. Misc. 116

(3)

Diary 1311

Bangalore, 29th September 1904.

From,

V. A. Rajaratna Mudt. Esqr.:
Registrar, Chief Court of Mysore.

To,

A. K. Venkatanaradiengar Esqr.:
Secretary to Government,
Genl: & Rev: Departments.

Sir,

In returning the papers received with your letter no. Jl 1791 / Rjs 8-03 dated the 22nd Instant, I am directed to enquire if the reference is intended to be a formal one under Section 57 of the Stamp Regulation II of 1900, and if so, to request that the papers may be retransmitted with the opinion of the Chief Controlling Revenue authority under that Section.

I have the honor to be,
Sir,
your most Obedient Servant;

V. Rajaratnam
Registrar

WM

Bus 162

(4)

No H 3087 of
R 8-03

6

19th November 04

To

The Registrar of the
Chief Court of Mysore

Sir,

I am directed to
state the following case
for ~~the~~ adjudication by
~~the Registrar of~~
the Chief Court under
section 57 of the Mysore
Stamps Regn, 1900.

~~Q~~ 2. A document
purporting to be a deed of
mortgage for Rs 1200 was
executed on the 30th March
1904 by Subbaraya Naika &
two others in favour of
one Gowli Ananthaya.
The document ~~set~~ recites
that out of the net annual
income of the lands mortgaged
viz Rs 550, a sum of Rs 130
shall be retained by the mortgagee
towards principal and interest

and the balance of Rs 420 paid over by him to the ~~C~~ C. Nagappa, a creditor of the mortgagor. and that the arrangement is to last till the mortgage debt is exhausted.

3. The D/ Com^r/ of Stamps considers that the document is a deed of mortgage falling under clause (a) of Article 38 of Sch. I of the Stamp Act, and that, as the mortgagee has to pay a sum of Rs 1000 at the outset and Rs 420 annually for about fifteen years, the consideration in the document is Rs 1000 + Rs 420 × 15, i.e. Rs 7300-

~~On the other~~

4. The Govt ~~does~~ think the document can be viewed under two aspects, as shown below.

5. The amount advanced by the mortgagee, the repayment of which (with interest) in 15 years is secured,

No 6011 Rs. One
238 of 1st file 4

S.R. (5) D. 3013 .10

Bangalore, 25th January 1905.

From V. A. Raja Ratna Mudr. Esqr.
Registrar, Chief Court of Mysore.

To B. N. Venkatavaradaiengar Esqr
Secretary to Govt.
Gl: & Rev: Depts.

11 recd 28/1

Sir,

Adverting to your no. $\frac{H\ 3087}{R.\ 7.\ 8-03}$ dated 19th november 1904, I am directed to forward copy of opinion in Civil Referred Case no 3 of 1904-5.

The enclosures received with your letter are herewith returned.

I have the honor to be,
Sir,
Your most obedient servant,
V. Raja Ratna Mudr
Registrar.

cmj

In the Chief Court of Mysore at Bangalore.
Monday, the 10th day of January 1905.

Present

Mr. Justice R. E. Slater - Chief Judge,
Mr. Justice A. Rangasami Iyengar - Judge,
and
Mr. Justice H. V. Ranjundayya - Judge

Civil Referred Case No. 3 of 1904-5 from the Secretary to the Government of Mysore, General and Revenue Departments, referring for adjudication of stamp duty under section 5 of the Mysore Stamp Regulation, 1900 a mortgage deed for Rs. 1000 executed by Subbarayabhatta, Ramabhatta and Krishnabhatta in favour of Javali Anantaya, received with his No. Fl. 3087 R.F. 8-03 dated 19th November 1904.

This case coming on for hearing on Saturday, the 7th day of January 1905, the Court pronounced the following

Opinion -

Opinion.

This is a reference under section 57 Stamp Regulation II of 1900 by the chief controlling Revenue authority as to the amount of duty payable under that Regulation on a certain deed dated 30-3-1904.

The deed purports to be a deed of hypothecation of immovable property. By this deed the obligors were to receive an advance of 1000 Rs. at interest of 6 per cent per annum and to make over possession of the hypothecated property to the obligee; the latter was to collect the profits, and out of them to pay the Government assessment, to pay 130 Rs. towards payment of principal 1000 Rs. and interest thereon and to pay the remaining net profits 420 Rs. on account of another

15

G.R.S. 281

R File No. S-03
Serial No. 6

Diary No. of letter replied to 3013

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
(J.C.)

, the 14th Dec 1905

Date of issue 17 do

Signed by Mr Satyaraya Chetty

READ.— Correspondence ending with letter no 4011 dt 25/11/05 from the Registrar of the Chief Court of Mysore regarding the assessment of Stamp duty on a deed of Mortgage execution for Rs 1000 executed by Subbarayabhatta & 2 others of Bhadravathi Shimoga in the Tirthahalli Taluk in favor of one Janaki Amantanje of Nalgar.

ORDER THEREON.— No

No R 5406 Order Memo: No

Encl: 1 Deed of Mortgage Papers
Copy of Judges opinion

P-T over

SUBJECT

MGCPB—9,000—11-9-04

16

The Chief Comm. ~~of~~
~~Mysore~~ having, ~~in~~ ~~the~~ ~~his~~
judgment dated the 10th
January 1905 held, for ~~the~~
reasons therein stated, that
the deed in question is
forgery & ~~therefore~~ void &
a mortgage deed, a copy
of the ~~said~~ judgment, or
opinion will be communi
cated to the Dy. Comr
of the Shimoga Distt. with
reference to his letter No
742-471. of the 25th January

8.2.1905
Secretary

To the Dy Comr 8/05 Shimoga Distt.
returning the deed & the
Ver. passport.

True